



SF 2368 – Disaster Loss Tax Coupling, Penalties & Interest (LSB 6216S5220)
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Fiscal Note Version – As amended by **S-5220**

Description

Senate File 2368 waives penalty and interest that would otherwise be due on taxes that were not paid on tax year 2008 tax returns under certain circumstances. Those circumstances include expanded deductions for disaster-related losses where the expanded deduction was allowed under federal tax law but not under Iowa tax law.

Amendment **S-5220** expands the waiver to include any tax year 2008 penalty and interest due as a result of a taxpayer claiming deductions on a 2008 tax return where the deduction was allowed under federal law but not under Iowa law.

Background

The Department of Revenue reports the following list of tax year 2008 changes to the federal internal revenue code that Iowa did not couple with for that tax year:

- Tuition and Fees Deduction – IRC §222
- Educator Expense Deduction – IRC §62(a)(2)(D)
- Itemized Deduction for State and Local Sales Tax – IRC §164(b)(5)(l)
- Tax-free IRA Distributions for Those Age 70 ½ and older up to \$100,000 (charitable deduction may be claimed on Schedule A if taxpayer itemizes) – IRC §403(d)(8)(F)
- Additional Standard Deduction for Real Property Tax Paid – IRC §63I(1)I
- Depreciation – Additional 50% First Year – IRC §168(k)
- Depreciation – 15-year SL for Qualified Leasehold and Restaurant Building Improvements – IRC §168(e)(3)(E)
- Race Horses ≤ 2 Years Old (Iowa = 7-yr. property) – IRC §168(a)(3)(A)(i)
- Charitable Contributions – Special Rules for Qualified Conservation Donations – IRC §170(b)(1)(E)&(2)
- Gain on Sale of Personal Residence – Surviving Spouse (enhanced exclusion -\$500,000 if sold within 2 years of date of death of spouse) – IRC §121(b)(4)
- Volunteer Firefighters/EMS Fringe – Gross Income Exclusion (up to \$30 per month) – IRC §139B
- Net Operating Loss (NOL) (3, 4 or 5 year) Carryback for Small Businesses (2008 only) – IRC §172(b)(1)(H)

MIDWESTERN DISASTER AREA PROVISIONS

- Additional Deduction for Casualty Losses (\$100 per casualty limit increased to \$500)
- Itemized Deductions for Disaster Loss without 10.0% AGI Test or Minimum \$100 Floor
- Distributions from Qualified Retirement Plans – eligible for ratable 3 yr. spread for income reporting (Iowa = current yr.)
- Penalty-free Loans from Qualified Retirement Plans (Iowa = inclusion in income)
- Waiver of Limitation on Charitable Contributions for Relief
- Increase in Charity Standard Mileage Rate (Iowa rate = 39¢)

- Exclusion of Non-Business Debt Cancellation from Income (individuals with principal residence in area)
- Expensing of Qualified Disaster Expenses for Small Business
- Loss of Dependency Status (temporary relocation of dependents – 6 mos. or greater)
- Value of Lodging Fringe – Victim Employee (up to \$600/mo.) (Iowa = taxable to recipient)
- Replacement Period for Nonrecognition of Gain – (4 yrs. vs. 5 yrs.)
- Expanded NOL Carryback Periods for 2008

Assumptions

- Although initial Iowa tax year 2008 instructions indicated that changes to federal deductions would also be available on Iowa tax returns, the Department did notify tax software providers and tax preparers of the correct interpretation by March 1, 2008. This significantly reduced the number of taxpayers filing returns utilizing deductions that were not allowed under Iowa law.
- Many of the tax preferences at issue impact a small number of taxpayers.
- The penalty and interest associated with incorrectly claiming many of the deductions would be small. For instance, the penalty and interest associated with claiming the \$250 Educator Expense Deduction would equal less than \$2.00 after a year of non-payment.
- Taxpayers that have already paid interest and/or penalties on the items will receive refunds from the State. Those that have not yet paid the interest and penalties would not be required to do so if the waiver is approved.

Fiscal Impact

[Senate File 2368](#) as amended by [S-5220](#) would waive penalty and interest owed by taxpayers under specified situations. The reduction in net General Fund revenue associated with the waiver is provided in the following table.

SF 2368 Net General Fund Revenue Reduction		
Item	FY 2010 Impact	FY 2011 Impact
Disaster Loss Deduction	\$ 100,000	\$ 111,000
Tuition and Fee Deduction	100,000	200,000
Educator Expense Deduction	10,000	10,000
Remaining provisions	10,000	20,000
	<u>\$ 220,000</u>	<u>\$ 341,000</u>

Source

Department of Revenue

/s/ Holly M. Lyons

March 15, 2010

The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#). Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
